

of Pub. L. 103-355, which is set out as a note under section 644 of Title 15, Commerce and Trade.

The Buy American Act, referred to in subsec. (b), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which enacted sections 10a, 10b, 10b-1, and 10c of this title, and enacted provisions set out as notes under section 10c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10a of this title and Tables.

#### EFFECTIVE DATE

Section effective Oct. 13, 1994, and to be implemented in Federal Acquisition Regulation not later than 60 days after Oct. 13, 1994, see section 4301(c) of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 10a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 10a of this title.

### **§ 429. List of laws inapplicable to contracts not greater than simplified acquisition threshold in Federal Acquisition Regulation**

#### **(a) List of inapplicable provisions of law**

(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such contracts or subcontracts (as the case may be) by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts and subcontracts in amounts not greater than the simplified acquisition threshold any provision of law that is not included on such list.

(2) A provision of law described in subsection (b) of this section that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the simplified acquisition threshold from the applicability of the provision.

#### **(b) Covered law**

A provision of law referred to in subsection (a)(2) of this section is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

(1) provides for criminal or civil penalties; or

(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

#### **(c) Petition**

In the event that a provision of law described in subsection (b) of this section is not included on the list of inapplicable provisions of law as required by subsection (a) of this section, and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2) of this section, a person may petition the Administrator for Federal Pro-

curement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) of this section within 60 days after the date on which the petition is received.

(Pub. L. 93-400, § 33, as added Pub. L. 103-355, title IV, § 4101, Oct. 13, 1994, 108 Stat. 3339.)

#### EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 252a of this title; title 10 section 2302a.

### **§ 430. List of laws inapplicable to procurements of commercial items in Federal Acquisition Regulation**

#### **(a) List of inapplicable provisions of law**

(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to purchases of commercial items by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts for the procurement of commercial items any provision of law that is not included on such list.

(2) A provision of law described in subsection (c) of this section that is enacted after October 13, 1994, shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercial items from the applicability of the provision.

#### **(b) Subcontracts**

(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under either a contract for the procurement of commercial items or a subcontract for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such subcontracts. Nothing in this section shall be construed to render inapplicable to subcontracts under a contract for the procurement of commercial items any provision of law that is not included on such list.

(2) A provision of law described in subsection (c) of this section shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under a contract for the procurement of commercial items from the applicability of the provision.

(3) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial items of another contractor without adding value.

(4) In this subsection, the term “subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

**(c) Covered law**

A provision of law referred to in subsections (a)(2) and (b) of this section is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.

**(d) Petition**

In the event that a provision of law described in subsection (c) of this section is not included on the list of inapplicable provisions of law as required by subsection (a) or (b) of this section, and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2) or (b)(2) of this section, a person may petition the Administrator for Federal Procurement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) or (b)(2) of this section within 60 days after the date on which the petition is received.

(Pub. L. 93-400, §34, as added Pub. L. 103-355, title VIII, §8003(a), Oct. 13, 1994, 108 Stat. 3388.)

**EFFECTIVE DATE**

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of this title.

Section 8003(b) of Pub. L. 103-355 provided that: “No petition may be filed under section 34(d) of the Office of Federal Procurement Policy Act [41 U.S.C. 430(d)], as added by subsection (a), until after the date occurring 6 months after the date of the enactment of this Act [Oct. 13, 1994].”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 264 of this title; title 10 section 2375.

**CHAPTER 8—FEDERAL GRANTS AND COOPERATIVE AGREEMENTS**

**§§ 501 to 509. Repealed. Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083**

Section 501, Pub. L. 95-224, §2, Feb. 3, 1978, 92 Stat. 3, set out the Congressional findings and statement of purposes in enacting the Federal Grant and Cooperative Agreement Act of 1977 [this chapter]. Sections 1

and 10(b) of Pub. L. 95-224, setting out the short title provisions and savings provisions respectively of that Act, were set out as notes under this section, and were repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083. Section 10(d) of Pub. L. 95-224, as amended by Pub. L. 97-162, Apr. 1, 1982, 96 Stat. 23, setting out the excepted transactions provisions of that Act was set out as a note under this section, and was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083. See sections 6301 and 6307(2) of Title 31, Money and Finance.

Section 502, Pub. L. 95-224, §3, Feb. 3, 1978, 92 Stat. 4, defined “State government”, “local government”, “other recipient”, “executive agency”, and “grant or cooperative agreement”. See section 6302 of Title 31.

Section 503, Pub. L. 95-224, §4, Feb. 3, 1978, 92 Stat. 4, provided for use of procurement contracts by executive agencies. See section 6303 of Title 31.

Section 504, Pub. L. 95-224, §5, Feb. 3, 1978, 92 Stat. 4, provided for use of grant agreements by executive agencies. See section 6304 of Title 31.

Section 505, Pub. L. 95-224, §6, Feb. 3, 1978, 92 Stat. 5, provided for use of cooperative agreements by executive agencies. See section 6305 of Title 31.

Section 506, Pub. L. 95-224, §7, Feb. 3, 1978, 92 Stat. 5, pertained to required and discretionary authorities. See section 6306 of Title 31.

Section 507, Pub. L. 95-224, §8, Feb. 3, 1978, 92 Stat. 5, directed Director of Office of Management and Budget to undertake a study to develop a better understanding of alternate means of implementing Federal assistance programs.

Section 508, Pub. L. 95-224, §9, Feb. 3, 1978, 92 Stat. 6, authorized Director of Office of Management and Budget to issue supplemental interpretive guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements. See section 6307(1) of Title 31.

Section 509, Pub. L. 95-224, §10(c), Feb. 3, 1978, 92 Stat. 6, related to use of multiple relationships for different components of jointly funded projects. See section 6308 of Title 31.

**CHAPTER 9—CONTRACT DISPUTES**

Sec. 601.	Definitions.
602.	Applicability of law. <ul style="list-style-type: none"> <li>(a) Executive agency contracts.</li> <li>(b) Tennessee Valley Authority contracts.</li> <li>(c) Foreign government or international organization contracts.</li> </ul>
603.	Maritime contracts.
604.	Fraudulent claims.
605.	Decision by contracting officer. <ul style="list-style-type: none"> <li>(a) Contractor claims.</li> <li>(b) Review; performance of contract pending appeal.</li> <li>(c) Amount of claim; certification; notification; time of issuance; presumption.</li> <li>(d) Alternative means of dispute resolution.</li> <li>(e) Termination of authority to engage in alternative means of dispute resolution; savings provision.</li> </ul>
606.	Contractor's right of appeal to board of contract appeals.
607.	Agency boards of contracts appeals. <ul style="list-style-type: none"> <li>(a) Establishment; consultation; Tennessee Valley Authority.</li> <li>(b) Appointment of members; chairman; compensation.</li> <li>(c) Appeals; inter-agency arrangements.</li> <li>(d) Jurisdiction.</li> <li>(e) Decisions.</li> <li>(f) Accelerated appeal disposition.</li> <li>(g) Review.</li> <li>(h) Procedural guidelines.</li> </ul>
608.	Small claims.